

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

BARCEL USA, LLC, a Texas limited
liability corporation,

Plaintiff,

vs.

BAJA DISTRIBUTORS, INC., a California
corporation, et al.,

Defendants.

CASE NO. 12cv1720 DMS (RBB)

**ORDER DENYING DEFENDANTS’
MOTION FOR RECONSIDERATION**

[Docket No. 85]

This matter comes before the Court on Defendants’ objection and motion for rehearing on Plaintiff’s de-designation and substitution of its expert witness on damages. Plaintiff filed an opposition to the motion, and Defendants filed a reply.¹ For the reasons discussed below, the Court denies Defendants’ motion.

On October 22, 2013, Plaintiff filed an *ex parte* motion for leave to amend the scheduling order to allow it to de-designate its damages expert and substitute a new expert. Defendants opposed the motion, but the Court granted Plaintiff the sought-after relief. Thereafter, Defendants filed the present motion in which they object to the Court’s ruling and request a rehearing. The Court construes this motion as one for reconsideration of the Court’s previous order.

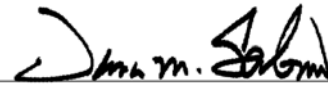
“Reconsideration is appropriate if the district court (1) is presented with newly discovered evidence, (2) committed clear error or the initial decision was manifestly unjust, or (3) if there is an

¹ In their reply, Defendants move to strike Plaintiff’s opposition on the ground it is single-spaced in violation of the Civil Local Rules. The Court disagrees that Plaintiff’s opposition is single-spaced, and therefore denies the motion to strike.

1 intervening change in controlling law.” *School Dist. No. 1J, Multnomah County, Oregon v. ACandS,*
2 *Inc.*, 5 F.3d 1255, 1263 (9th Cir. 1993). Defendants here have not demonstrated that any of these
3 conditions apply. Rather, their motion simply rehashes arguments that were or could have been raised
4 in their opposition to Plaintiff’s motion. This is insufficient to warrant reconsideration of the Court’s
5 previous order. *See Kona Enterprises, Inc. v. Estate of Bishop*, 229 F.3d 877, 890 (9th Cir. 2000)
6 (citing *389 Orange Street Partners v. Arnold*, 179 F.3d 656, 665 (9th Cir. 1999) (stating motion for
7 reconsideration “may *not* be used to raise arguments or present evidence for the first time when they
8 could reasonably have been raised earlier in the litigation.”) Accordingly, the Court denies
9 Defendants’ motion for reconsideration.

10 **IT IS SO ORDERED.**

11 DATED: December 23, 2013



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13 HON. DANA M. SABRAW
14 United States District Judge
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